



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB4606

by Rep. Brandon W. Phelps

SYNOPSIS AS INTRODUCED:

730 ILCS 5/3-1-2	from Ch. 38, par. 1003-1-2
730 ILCS 5/3-2-2	from Ch. 38, par. 1003-2-2
730 ILCS 5/3-2-5	from Ch. 38, par. 1003-2-5

Amends the Unified Code of Corrections. Provides that the Department of Corrections shall maintain an overall inmate to security staff ratio that shall not exceed 6 and that the Department of Juvenile Justice shall maintain an overall inmate to security staff ratio that shall not exceed 2. Provides that the respective Departments shall hire the necessary personnel in order to meet these requirements. Effective January 1, 2010.

LRB096 13707 RLC 28471 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning corrections.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Unified Code of Corrections is amended by
5 changing Sections 3-1-2, 3-2-2, and 3-2-5 as follows:

6 (730 ILCS 5/3-1-2) (from Ch. 38, par. 1003-1-2)

7 Sec. 3-1-2. Definitions.

8 (a) "Chief Administrative Officer" means the person
9 designated by the Director to exercise the powers and duties of
10 the Department of Corrections in regard to committed persons
11 within a correctional institution or facility, and includes the
12 superintendent of any juvenile institution or facility.

13 (a-5) "Sex offense" for the purposes of paragraph (16) of
14 subsection (a) of Section 3-3-7, paragraph (10) of subsection
15 (a) of Section 5-6-3, and paragraph (18) of subsection (c) of
16 Section 5-6-3.1 only means:

17 (i) A violation of any of the following Sections of the
18 Criminal Code of 1961: 10-7 (aiding and abetting child
19 abduction under Section 10-5(b)(10)), 10-5(b)(10) (child
20 luring), 11-6 (indecent solicitation of a child), 11-6.5
21 (indecent solicitation of an adult), 11-15.1 (soliciting
22 for a juvenile prostitute), 11-17.1 (keeping a place of
23 juvenile prostitution), 11-18.1 (patronizing a juvenile

1 prostitute), 11-19.1 (juvenile pimping), 11-19.2
2 (exploitation of a child), 11-20.1 (child pornography),
3 12-14.1 (predatory criminal sexual assault of a child), or
4 12-33 (ritualized abuse of a child). An attempt to commit
5 any of these offenses.

6 (ii) A violation of any of the following Sections of
7 the Criminal Code of 1961: 12-13 (criminal sexual assault),
8 12-14 (aggravated criminal sexual assault), 12-16
9 (aggravated criminal sexual abuse), and subsection (a) of
10 Section 12-15 (criminal sexual abuse). An attempt to commit
11 any of these offenses.

12 (iii) A violation of any of the following Sections of
13 the Criminal Code of 1961 when the defendant is not a
14 parent of the victim:

- 15 10-1 (kidnapping),
- 16 10-2 (aggravated kidnapping),
- 17 10-3 (unlawful restraint),
- 18 10-3.1 (aggravated unlawful restraint).

19 An attempt to commit any of these offenses.

20 (iv) A violation of any former law of this State
21 substantially equivalent to any offense listed in this
22 subsection (a-5).

23 An offense violating federal law or the law of another
24 state that is substantially equivalent to any offense listed in
25 this subsection (a-5) shall constitute a sex offense for the
26 purpose of this subsection (a-5). A finding or adjudication as

1 a sexually dangerous person under any federal law or law of
2 another state that is substantially equivalent to the Sexually
3 Dangerous Persons Act shall constitute an adjudication for a
4 sex offense for the purposes of this subsection (a-5).

5 (b) "Commitment" means a judicially determined placement
6 in the custody of the Department of Corrections on the basis of
7 delinquency or conviction.

8 (c) "Committed Person" is a person committed to the
9 Department, however a committed person shall not be considered
10 to be an employee of the Department of Corrections for any
11 purpose, including eligibility for a pension, benefits, or any
12 other compensation or rights or privileges which may be
13 provided to employees of the Department.

14 (d) "Correctional Institution or Facility" means any
15 building or part of a building where committed persons are kept
16 in a secured manner.

17 (e) In the case of functions performed before the effective
18 date of this amendatory Act of the 94th General Assembly,
19 "Department" means the Department of Corrections of this State.
20 In the case of functions performed on or after the effective
21 date of this amendatory Act of the 94th General Assembly,
22 "Department" has the meaning ascribed to it in subsection
23 (f-5).

24 (f) In the case of functions performed before the effective
25 date of this amendatory Act of the 94th General Assembly,
26 "Director" means the Director of the Department of Corrections.

1 In the case of functions performed on or after the effective
2 date of this amendatory Act of the 94th General Assembly,
3 "Director" has the meaning ascribed to it in subsection (f-5).

4 (f-5) In the case of functions performed on or after the
5 effective date of this amendatory Act of the 94th General
6 Assembly, references to "Department" or "Director" refer to
7 either the Department of Corrections or the Director of
8 Corrections or to the Department of Juvenile Justice or the
9 Director of Juvenile Justice unless the context is specific to
10 the Department of Juvenile Justice or the Director of Juvenile
11 Justice.

12 (g) "Discharge" means the final termination of a commitment
13 to the Department of Corrections.

14 (h) "Discipline" means the rules and regulations for the
15 maintenance of order and the protection of persons and property
16 within the institutions and facilities of the Department and
17 their enforcement.

18 (i) "Escape" means the intentional and unauthorized
19 absence of a committed person from the custody of the
20 Department.

21 (j) "Furlough" means an authorized leave of absence from
22 the Department of Corrections for a designated purpose and
23 period of time.

24 (k) "Parole" means the conditional and revocable release of
25 a committed person under the supervision of a parole officer.

26 (l) "Prisoner Review Board" means the Board established in

1 Section 3-3-1(a), independent of the Department, to review
2 rules and regulations with respect to good time credits, to
3 hear charges brought by the Department against certain
4 prisoners alleged to have violated Department rules with
5 respect to good time credits, to set release dates for certain
6 prisoners sentenced under the law in effect prior to the
7 effective date of this Amendatory Act of 1977, to hear requests
8 and make recommendations to the Governor with respect to
9 pardon, reprieve or commutation, to set conditions for parole
10 and mandatory supervised release and determine whether
11 violations of those conditions justify revocation of parole or
12 release, and to assume all other functions previously exercised
13 by the Illinois Parole and Pardon Board.

14 (m) Whenever medical treatment, service, counseling, or
15 care is referred to in this Unified Code of Corrections, such
16 term may be construed by the Department or Court, within its
17 discretion, to include treatment, service or counseling by a
18 Christian Science practitioner or nursing care appropriate
19 therewith whenever request therefor is made by a person subject
20 to the provisions of this Act.

21 (n) "Victim" shall have the meaning ascribed to it in
22 subsection (a) of Section 3 of the Bill of Rights for Victims
23 and Witnesses of Violent Crime Act.

24 (o) "Inmate to security staff ratio" means the number of
25 inmates per security staff personnel.

26 (Source: P.A. 94-159, eff. 7-11-05; 94-696, eff. 6-1-06.)

1 (730 ILCS 5/3-2-2) (from Ch. 38, par. 1003-2-2)
2 Sec. 3-2-2. Powers and Duties of the Department.

3 (1) In addition to the powers, duties and responsibilities
4 which are otherwise provided by law, the Department shall have
5 the following powers:

6 (a) To accept persons committed to it by the courts of
7 this State for care, custody, treatment and
8 rehabilitation, and to accept federal prisoners and aliens
9 over whom the Office of the Federal Detention Trustee is
10 authorized to exercise the federal detention function for
11 limited purposes and periods of time.

12 (b) To develop and maintain reception and evaluation
13 units for purposes of analyzing the custody and
14 rehabilitation needs of persons committed to it and to
15 assign such persons to institutions and programs under its
16 control or transfer them to other appropriate agencies. In
17 consultation with the Department of Alcoholism and
18 Substance Abuse (now the Department of Human Services), the
19 Department of Corrections shall develop a master plan for
20 the screening and evaluation of persons committed to its
21 custody who have alcohol or drug abuse problems, and for
22 making appropriate treatment available to such persons;
23 the Department shall report to the General Assembly on such
24 plan not later than April 1, 1987. The maintenance and
25 implementation of such plan shall be contingent upon the

1 availability of funds.

2 (b-1) To create and implement, on January 1, 2002, a
3 pilot program to establish the effectiveness of
4 pupillometer technology (the measurement of the pupil's
5 reaction to light) as an alternative to a urine test for
6 purposes of screening and evaluating persons committed to
7 its custody who have alcohol or drug problems. The pilot
8 program shall require the pupillometer technology to be
9 used in at least one Department of Corrections facility.
10 The Director may expand the pilot program to include an
11 additional facility or facilities as he or she deems
12 appropriate. A minimum of 4,000 tests shall be included in
13 the pilot program. The Department must report to the
14 General Assembly on the effectiveness of the program by
15 January 1, 2003.

16 (b-5) To develop, in consultation with the Department
17 of State Police, a program for tracking and evaluating each
18 inmate from commitment through release for recording his or
19 her gang affiliations, activities, or ranks.

20 (c) To maintain and administer all State correctional
21 institutions and facilities under its control and to
22 establish new ones as needed. Pursuant to its power to
23 establish new institutions and facilities, the Department
24 may, with the written approval of the Governor, authorize
25 the Department of Central Management Services to enter into
26 an agreement of the type described in subsection (d) of

1 Section 405-300 of the Department of Central Management
2 Services Law (20 ILCS 405/405-300). The Department shall
3 designate those institutions which shall constitute the
4 State Penitentiary System.

5 Pursuant to its power to establish new institutions and
6 facilities, the Department may authorize the Department of
7 Central Management Services to accept bids from counties
8 and municipalities for the construction, remodeling or
9 conversion of a structure to be leased to the Department of
10 Corrections for the purposes of its serving as a
11 correctional institution or facility. Such construction,
12 remodeling or conversion may be financed with revenue bonds
13 issued pursuant to the Industrial Building Revenue Bond Act
14 by the municipality or county. The lease specified in a bid
15 shall be for a term of not less than the time needed to
16 retire any revenue bonds used to finance the project, but
17 not to exceed 40 years. The lease may grant to the State
18 the option to purchase the structure outright.

19 Upon receipt of the bids, the Department may certify
20 one or more of the bids and shall submit any such bids to
21 the General Assembly for approval. Upon approval of a bid
22 by a constitutional majority of both houses of the General
23 Assembly, pursuant to joint resolution, the Department of
24 Central Management Services may enter into an agreement
25 with the county or municipality pursuant to such bid.

26 (c-5) To build and maintain regional juvenile

1 detention centers and to charge a per diem to the counties
2 as established by the Department to defray the costs of
3 housing each minor in a center. In this subsection (c-5),
4 "juvenile detention center" means a facility to house
5 minors during pendency of trial who have been transferred
6 from proceedings under the Juvenile Court Act of 1987 to
7 prosecutions under the criminal laws of this State in
8 accordance with Section 5-805 of the Juvenile Court Act of
9 1987, whether the transfer was by operation of law or
10 permissive under that Section. The Department shall
11 designate the counties to be served by each regional
12 juvenile detention center.

13 (d) To develop and maintain programs of control,
14 rehabilitation and employment of committed persons within
15 its institutions.

16 (d-5) To provide a pre-release job preparation program
17 for inmates at Illinois adult correctional centers.

18 (e) To establish a system of supervision and guidance
19 of committed persons in the community.

20 (f) To establish in cooperation with the Department of
21 Transportation to supply a sufficient number of prisoners
22 for use by the Department of Transportation to clean up the
23 trash and garbage along State, county, township, or
24 municipal highways as designated by the Department of
25 Transportation. The Department of Corrections, at the
26 request of the Department of Transportation, shall furnish

1 such prisoners at least annually for a period to be agreed
2 upon between the Director of Corrections and the Director
3 of Transportation. The prisoners used on this program shall
4 be selected by the Director of Corrections on whatever
5 basis he deems proper in consideration of their term,
6 behavior and earned eligibility to participate in such
7 program - where they will be outside of the prison facility
8 but still in the custody of the Department of Corrections.
9 Prisoners convicted of first degree murder, or a Class X
10 felony, or armed violence, or aggravated kidnapping, or
11 criminal sexual assault, aggravated criminal sexual abuse
12 or a subsequent conviction for criminal sexual abuse, or
13 forcible detention, or arson, or a prisoner adjudged a
14 Habitual Criminal shall not be eligible for selection to
15 participate in such program. The prisoners shall remain as
16 prisoners in the custody of the Department of Corrections
17 and such Department shall furnish whatever security is
18 necessary. The Department of Transportation shall furnish
19 trucks and equipment for the highway cleanup program and
20 personnel to supervise and direct the program. Neither the
21 Department of Corrections nor the Department of
22 Transportation shall replace any regular employee with a
23 prisoner.

24 (g) To maintain records of persons committed to it and
25 to establish programs of research, statistics and
26 planning.

1 (h) To investigate the grievances of any person
2 committed to the Department, to inquire into any alleged
3 misconduct by employees or committed persons, and to
4 investigate the assets of committed persons to implement
5 Section 3-7-6 of this Code; and for these purposes it may
6 issue subpoenas and compel the attendance of witnesses and
7 the production of writings and papers, and may examine
8 under oath any witnesses who may appear before it; to also
9 investigate alleged violations of a parolee's or
10 releasee's conditions of parole or release; and for this
11 purpose it may issue subpoenas and compel the attendance of
12 witnesses and the production of documents only if there is
13 reason to believe that such procedures would provide
14 evidence that such violations have occurred.

15 If any person fails to obey a subpoena issued under
16 this subsection, the Director may apply to any circuit
17 court to secure compliance with the subpoena. The failure
18 to comply with the order of the court issued in response
19 thereto shall be punishable as contempt of court.

20 (i) To appoint and remove the chief administrative
21 officers, and administer programs of training and
22 development of personnel of the Department. Personnel
23 assigned by the Department to be responsible for the
24 custody and control of committed persons or to investigate
25 the alleged misconduct of committed persons or employees or
26 alleged violations of a parolee's or releasee's conditions

1 of parole shall be conservators of the peace for those
2 purposes, and shall have the full power of peace officers
3 outside of the facilities of the Department in the
4 protection, arrest, retaking and reconfining of committed
5 persons or where the exercise of such power is necessary to
6 the investigation of such misconduct or violations.

7 (j) To cooperate with other departments and agencies
8 and with local communities for the development of standards
9 and programs for better correctional services in this
10 State.

11 (k) To administer all moneys and properties of the
12 Department.

13 (l) To report annually to the Governor on the committed
14 persons, institutions and programs of the Department.

15 (l-5) In a confidential annual report to the Governor,
16 the Department shall identify all inmate gangs by
17 specifying each current gang's name, population and allied
18 gangs. The Department shall further specify the number of
19 top leaders identified by the Department for each gang
20 during the past year, and the measures taken by the
21 Department to segregate each leader from his or her gang
22 and allied gangs. The Department shall further report the
23 current status of leaders identified and segregated in
24 previous years. All leaders described in the report shall
25 be identified by inmate number or other designation to
26 enable tracking, auditing, and verification without

1 revealing the names of the leaders. Because this report
2 contains law enforcement intelligence information
3 collected by the Department, the report is confidential and
4 not subject to public disclosure.

5 (m) To make all rules and regulations and exercise all
6 powers and duties vested by law in the Department.

7 (n) To establish rules and regulations for
8 administering a system of good conduct credits,
9 established in accordance with Section 3-6-3, subject to
10 review by the Prisoner Review Board.

11 (o) To administer the distribution of funds from the
12 State Treasury to reimburse counties where State penal
13 institutions are located for the payment of assistant
14 state's attorneys' salaries under Section 4-2001 of the
15 Counties Code.

16 (p) To exchange information with the Department of
17 Human Services and the Department of Healthcare and Family
18 Services for the purpose of verifying living arrangements
19 and for other purposes directly connected with the
20 administration of this Code and the Illinois Public Aid
21 Code.

22 (q) To establish a diversion program.

23 The program shall provide a structured environment for
24 selected technical parole or mandatory supervised release
25 violators and committed persons who have violated the rules
26 governing their conduct while in work release. This program

1 shall not apply to those persons who have committed a new
2 offense while serving on parole or mandatory supervised
3 release or while committed to work release.

4 Elements of the program shall include, but shall not be
5 limited to, the following:

6 (1) The staff of a diversion facility shall provide
7 supervision in accordance with required objectives set
8 by the facility.

9 (2) Participants shall be required to maintain
10 employment.

11 (3) Each participant shall pay for room and board
12 at the facility on a sliding-scale basis according to
13 the participant's income.

14 (4) Each participant shall:

15 (A) provide restitution to victims in
16 accordance with any court order;

17 (B) provide financial support to his
18 dependents; and

19 (C) make appropriate payments toward any other
20 court-ordered obligations.

21 (5) Each participant shall complete community
22 service in addition to employment.

23 (6) Participants shall take part in such
24 counseling, educational and other programs as the
25 Department may deem appropriate.

26 (7) Participants shall submit to drug and alcohol

1 screening.

2 (8) The Department shall promulgate rules
3 governing the administration of the program.

4 (r) To enter into intergovernmental cooperation
5 agreements under which persons in the custody of the
6 Department may participate in a county impact
7 incarceration program established under Section 3-6038 or
8 3-15003.5 of the Counties Code.

9 (r-5) (Blank).

10 (r-10) To systematically and routinely identify with
11 respect to each streetgang active within the correctional
12 system: (1) each active gang; (2) every existing inter-gang
13 affiliation or alliance; and (3) the current leaders in
14 each gang. The Department shall promptly segregate leaders
15 from inmates who belong to their gangs and allied gangs.
16 "Segregate" means no physical contact and, to the extent
17 possible under the conditions and space available at the
18 correctional facility, prohibition of visual and sound
19 communication. For the purposes of this paragraph (r-10),
20 "leaders" means persons who:

21 (i) are members of a criminal streetgang;

22 (ii) with respect to other individuals within the
23 streetgang, occupy a position of organizer,
24 supervisor, or other position of management or
25 leadership; and

26 (iii) are actively and personally engaged in

1 directing, ordering, authorizing, or requesting
2 commission of criminal acts by others, which are
3 punishable as a felony, in furtherance of streetgang
4 related activity both within and outside of the
5 Department of Corrections.

6 "Streetgang", "gang", and "streetgang related" have the
7 meanings ascribed to them in Section 10 of the Illinois
8 Streetgang Terrorism Omnibus Prevention Act.

9 (s) To operate a super-maximum security institution,
10 in order to manage and supervise inmates who are disruptive
11 or dangerous and provide for the safety and security of the
12 staff and the other inmates.

13 (t) To monitor any unprivileged conversation or any
14 unprivileged communication, whether in person or by mail,
15 telephone, or other means, between an inmate who, before
16 commitment to the Department, was a member of an organized
17 gang and any other person without the need to show cause or
18 satisfy any other requirement of law before beginning the
19 monitoring, except as constitutionally required. The
20 monitoring may be by video, voice, or other method of
21 recording or by any other means. As used in this
22 subdivision (1)(t), "organized gang" has the meaning
23 ascribed to it in Section 10 of the Illinois Streetgang
24 Terrorism Omnibus Prevention Act.

25 As used in this subdivision (1)(t), "unprivileged
26 conversation" or "unprivileged communication" means a

1 conversation or communication that is not protected by any
2 privilege recognized by law or by decision, rule, or order
3 of the Illinois Supreme Court.

4 (u) To establish a Women's and Children's Pre-release
5 Community Supervision Program for the purpose of providing
6 housing and services to eligible female inmates, as
7 determined by the Department, and their newborn and young
8 children.

9 (v) To do all other acts necessary to carry out the
10 provisions of this Chapter.

11 (2) The Department of Corrections shall by January 1, 1998,
12 consider building and operating a correctional facility within
13 100 miles of a county of over 2,000,000 inhabitants, especially
14 a facility designed to house juvenile participants in the
15 impact incarceration program.

16 (3) When the Department lets bids for contracts for medical
17 services to be provided to persons committed to Department
18 facilities by a health maintenance organization, medical
19 service corporation, or other health care provider, the bid may
20 only be let to a health care provider that has obtained an
21 irrevocable letter of credit or performance bond issued by a
22 company whose bonds are rated AAA by a bond rating
23 organization.

24 (4) When the Department lets bids for contracts for food or
25 commissary services to be provided to Department facilities,
26 the bid may only be let to a food or commissary services

1 provider that has obtained an irrevocable letter of credit or
2 performance bond issued by a company whose bonds are rated AAA
3 by a bond rating organization.

4 (5) The Department of Corrections shall maintain an overall
5 inmate to security staff ratio that shall not exceed 6. If the
6 inmate to security staff ratio exceeds 6, then the Department
7 of Corrections shall hire the necessary personnel in order to
8 meet this requirement.

9 (Source: P.A. 93-839, eff. 7-30-04; 94-696, eff. 6-1-06;
10 94-1067, eff. 8-1-06.)

11 (730 ILCS 5/3-2-5) (from Ch. 38, par. 1003-2-5)

12 Sec. 3-2-5. Organization of the Department of Corrections
13 and the Department of Juvenile Justice.

14 (a) There shall be an Adult Division within the Department
15 which shall be administered by an Assistant Director appointed
16 by the Governor under The Civil Administrative Code of
17 Illinois. The Assistant Director shall be under the direction
18 of the Director. The Adult Division shall be responsible for
19 all persons committed or transferred to the Department under
20 Sections 3-10-7 or 5-8-6 of this Code.

21 (b) There shall be a Department of Juvenile Justice which
22 shall be administered by a Director appointed by the Governor
23 under the Civil Administrative Code of Illinois. The Department
24 of Juvenile Justice shall be responsible for all persons under
25 17 years of age when sentenced to imprisonment and committed to

1 the Department under subsection (c) of Section 5-8-6 of this
2 Code, Section 5-10 of the Juvenile Court Act, or Section 5-750
3 of the Juvenile Court Act of 1987. Persons under 17 years of
4 age committed to the Department of Juvenile Justice pursuant to
5 this Code shall be sight and sound separate from adult
6 offenders committed to the Department of Corrections.

7 (c) The Department shall create a gang intelligence unit
8 under the supervision of the Director. The unit shall be
9 specifically designed to gather information regarding the
10 inmate gang population, monitor the activities of gangs, and
11 prevent the furtherance of gang activities through the
12 development and implementation of policies aimed at deterring
13 gang activity. The Director shall appoint a Corrections
14 Intelligence Coordinator.

15 All information collected and maintained by the unit shall
16 be highly confidential, and access to that information shall be
17 restricted by the Department. The information shall be used to
18 control and limit the activities of gangs within correctional
19 institutions under the jurisdiction of the Illinois Department
20 of Corrections and may be shared with other law enforcement
21 agencies in order to curb gang activities outside of
22 correctional institutions under the jurisdiction of the
23 Department and to assist in the investigations and prosecutions
24 of gang activity. The Department shall establish and promulgate
25 rules governing the release of information to outside law
26 enforcement agencies. Due to the highly sensitive nature of the

1 information, the information is exempt from requests for
2 disclosure under the Freedom of Information Act as the
3 information contained is highly confidential and may be harmful
4 if disclosed.

5 The Department shall file an annual report with the General
6 Assembly on the profile of the inmate population associated
7 with gangs, gang-related activity within correctional
8 institutions under the jurisdiction of the Department, and an
9 overall status of the unit as it relates to its function and
10 performance.

11 (d) The Department of Juvenile Justice shall maintain an
12 overall inmate to security staff ratio that shall not exceed 2.
13 If the inmate to security staff ratio exceeds 2, then the
14 Department of Juvenile Justice shall hire the necessary
15 personnel in order to meet this requirement.

16 (Source: P.A. 94-696, eff. 6-1-06.)

17 Section 99. Effective date. This Act takes effect January
18 1, 2010.